

## REMARKS

### §112, Second Paragraph Rejection

Claims 1, 14-16, 19, 21-30, 32, 33 and 37-44 were rejected under 35 USC § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Please note that claim 1 and claims dependent thereon have been canceled.

The Examiner states that in claims 1, 19, 32 and 44, use of the term "said alkylating agent having its haloketone or alpha haloaldehyde functional group derivatized with a protected functional group" is indefinite as to the metes and bounds of "functional group derivations" within the scope of the claims.

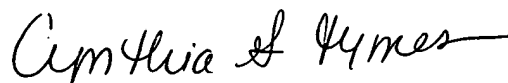
Applicant respectfully traverses the amendment. In the amendment filed on June 23, 2003, applicant had amended the claims in question to recite that the "carbonyl group" of the haloketone or alpha haloaldehyde functional group is derivatized with a protected functional group. The "functional group derivatized" and the "resulting final structure" are set and definite boundaries as to what patent protection is sought. As stated in the previous office action, the CCPA held that the limitation used to define a radical on a chemical compound as "incapable of forming a dye with said oxidizing developing agent" although functional, was perfectly acceptable because it **set definite boundaries** on the patent protection sought. *In re Barr*, 444 F.2d 588, 170 USPQ 33 (CCPA 1971). See MPEP 2173.05(g). The

claims are reasonably definite as to apprise one of skill in the art of the invention claimed and the requirements of the statute have been met.

Applicants believe that the amendments to and remarks regarding the claims overcome the rejections.

Applicants submit that the amendments and remarks overcome the rejections under 35 U.S.C. §112, second paragraph and ask that the Examiner withdraw the rejections.

Respectfully submitted,

A handwritten signature in cursive script, reading "Cynthia G. Tymeson".

Cynthia G. Tymeson  
Registration No. 34,745  
Attorney for Applicants

Dade Behring Inc.  
1717 Deerfield Rd.  
Deerfield, Illinois 60015

302/631-0360



CERTIFICATE OF MAILING via EXPRESS MAIL

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED  
WITH THE UNITED STATES POSTAL SERVICES, Express Mail No.  
*ER 5260080221* US IN AN ENVELOPE ADDRESSED TO THE  
COMMISSIONER OF PATENTS AND TRADEMARKS, Box RCE, PO BOX  
1450, Alexandria, VA 22313-1450

BY: *Cynthia G. Tymeson*  
Cynthia G. Tymeson

*March 05, 2004*

RECEIVED

MAR 12 2004